

## **PROBATE CALENDAR NOTES**

**January 6, 2023**

**8:30 AM, Department 40**

**Placer County Superior Court**

**Published January 3, 2023, 2:30 PM**

**Updated (final) January 5, 2023, 2:00 PM**

**For current local court COVID-19 information, click [HERE](#).**

**See Emergency Local Rule 10.28 & Local Rule 10.24 concerning remote appearances. Local Rule 10.27, "eDelivery/eFiling," requires electronic filing of documents by attorneys and represented parties.**

These calendar notes are provided pursuant to Local Rule 80.1.4 for the probate calendar set for hearing **January 6, 2023, 8:30 AM, in Department 40**, Commissioner Michael A. Jacques, presiding. Remote appearances are generally available for this calendar, as provided in the Local Rules.

Pursuant to Local Rule 80.1.4, these calendar notes are **not** a tentative ruling on the merits of any matter before the court.

Updated notes may be posted at any time and will generally be updated the court day prior to the hearing. Staff may respond to limited questions concerning calendar notes; however, court staff may not give legal advice to parties or attorneys. Messages may be left for the Office of Legal Research at (916) 408-6119.

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### **1. S-PR-0008341 Alegria, Gloria Lara - In Re the Estate of**

Appearance is required for continued hearing on petition to remove estate administrator.

Current status is needed.

**2. S-PR-0008729 Allen, Mark David - In Re the Estate of**

Appearance is required for continued hearing on petition for final distribution. Current status is needed.

As previously recommended, it is recommended the petition be denied for the following reasons:

Guardian ad litem Rosalyn Dean was explicitly denied any power to waive or disclaim any substantive rights of Keegan Tucker absent additional court orders. GAL order filed March 29, 2018, ¶ 5. As such, Dean had no authorization to enter into the purported settlement agreement (see below) or to waive an account on behalf of minor. No account has been filed.

The purported settlement agreement requires court approval but has not been approved by the court. Exhibit A to final distribution petition, ¶ 7. The instant petition does not pray for approval of the settlement agreement.

If the court were to determine that this petition includes an implied request to approve the settlement agreement, that request should be denied. The verified filings in this case undermine the basis for the settlement. The verified application for appointment of guardian ad litem filed by Rosalyn Dean filed March 29, 2018, appears to establish that decedent Mark Allen is both conclusively presumed to be the father of Amanda Tucker under Fam.C. § 7540 and presumed to be the father of Amanda Tucker under Fam.C. § 7611(a) & (d), with no clear and convincing evidence to rebut either § 7611 presumption. See Fam.C. § 7612(a); as to § 7611(a), see also § 7630(a)(2). Because of these presumptions, there is no apparent controversy as to heirship in this estate and minor is the sole heir of decedent under Prob.C. § 6402(a). Accordingly, there is no basis for the court to approve a settlement agreement divesting minor of 80% of the estate.

If the court were to grant the petition, fees should be reduced pursuant to Prob.C. § 12205. Petitioner offers no justification whatever for delaying the closing of the estate by more than 5 years after appointment, 4.5 years after purporting to settle family differences, and 3 years after sale of the estate real property.

Note: as provided in Local Rule 80.1.4, these calendar notes are not a tentative ruling by the court on the merits of the petition. Rather, they include "additional information to assist the parties to prepare for the hearing."

**3. S-PR-0010558 Carnevale Fam Trust; In re the**

Trustee account and petition for other relief

Appearance is required for continued hearing on trustee account and petition for other relief.

Petition to instruct trustee, invalidate trust, surrender funds, for attorney fees, to compel account, and appoint private fiduciary

Appearance is required for continued hearing on petition to instruct trustee, invalidate trust, surrender funds, for attorney fees, to compel account, and appoint private fiduciary. The period to amend granted by the court has not concluded.

Trust 1st & 2d accounts, petition for fees

Appearance is required for hearing on trust 1st and 2d accounts and petition for fees.

Missing direct service to Hunter Carnevale. Prob.C. § 1214 & C.R.C. 7.51(a)(1) & (b). Prob.C. § 1214 requires that notice to a represented person "*also* be delivered . . . to th[e] attorney" (emphasis added); service to the attorney does not excuse the requirement to serve the person entitled to notice. Waiver or notice is needed.

**4. S-PR-0010705 Briggs, Ruth L. - In Re the Estate of**

Amended petition for final distribution is recommended for approval as prayed.

**5. S-PR-0010774 Beck, Adam - In re the Estate of**

Petition for final distribution is recommended for approval as prayed.

**6. S-PR-0010882 In Re the Estate of Sammut, Joseph P III**

Petition for final distribution is recommended for approval as prayed.

**7. S-PR-0010961 In Re the Estate of Temple, Marcia Thelma**

Amended real property succession petition is recommended for approval only as follows:

Petitioners Joslyn Turner and Eric Sarenella each succeed to a 1/3 share of decedent's real property interest identified in the petition.

Petitioners provide no authority for the request to determine they each succeed to 1/2 of the estate, thereby depriving Darren Saranella of his 1/3 share of the estate.

**8. S-PR-0010997 In Re the Kramer Fam Liv Trust**

Appearance is required for continued hearing on petition to determine invalidity of trust restatement, for accounting, and to remove trustee.

**9. S-PR-0011293 In Re the William N & Rosemary Farac Rev Trust**

It is recommended the petition to determine trust terms be continued to January 27, 2023, 8:30 a.m., in Department 40, to be heard with trustees' petition for instructions set at that time.

**10. S-PR-0011341 In Re the Estate of Bishop, William W**

Missing sufficient notice of hearing on amended petition to administer estate. Notice filed December 2, 2022, omits required ¶ 5 concerning requested IAEA powers.

Missing proof of publication of notice of hearing for amended petition. C.R.C. 7.53(a).

Missing original codicil, Prob.C. § 8200(a). Codicil is not self-proving (witnesses did not execute any declaration (C.C.P. § 2015.5) or affidavit).

Missing declaration of terms of beneficiary trust or authenticated copy of beneficiary trust. Local Rule 80.2.1. Missing proof of subscribing witness(es).

**11. S-PR-0011377 In Re the Steele Fam Rev Inter-vivos Trust**

Appearance is required for continued hearing on petition to suspend / remove trustee and for other relief.

Current status is needed. Note: no petition to approve settlement agreement or proposed stipulation and order to approve settlement has been filed.

**12. S-PR-0011595 In Re the Estate of Brown, William Anthony**

Petition to administer estate is recommended for approval as prayed.

**13. S-PR-0011744 In Re the Estate of Atchison, Barbara Loretta**

Missing relationship(s) of persons listed in ¶ 8 to decedent.

**14. S-PR-0011750 In Re the Estate of Garman, Nancy Lee**

Petition to administer estate is recommended for approval as prayed.

**15. S-PR-0011751 In Re the Estate of Rogers, Rebecca Lynn**

Petition to administer estate is recommended for approval as prayed.

**16. S-PR-0011752 In Re the McCammond Trust**

Missing sufficient notice of hearing. Use of mandatory form DE-115 is required (C.R.C. 7.100) to satisfy the requirements of Prob.C. § 851(c)(1) & (3).

If notice is resolved to the court's satisfaction, it is recommended the petition be denied.

*Heggstad* provides no support for the petition, as the subject real property is not identified in the trust.

*Ukkestad v. RBS Finance, Inc.* (2015) 235 Cal.App.4th 156 permits a determination that an "all real property" clause may be sufficient to satisfy the statute of frauds for trust funding, but did not consider and does not appear to hold that an all-real-property writing satisfies the statute of frauds as to after-acquired real property. Further, property of a decedent's estate does not pass by will to a trust until the estate has been administered. "It [is] error for the court to award [the property] directly to the trust in the absence of a probate proceeding." *Placencia v. Strazicich* (2019) 42 Cal.App.5th 730, 734 & 743-744, citing *Estate of Hart* (1957) 151 Cal.App.2d 271, 280-281 (the right to possession of property subject to administration is deferred until distribution of decedent's estate). See also Prob.C. § 7001.

These calendar notes are made available to assist the court and the parties to prepare for the hearing, but are not a tentative ruling by the court on the merits of the petition. See Local Rule 80.1.4.

**17. S-PR-0011753 In Re the Charles F Fairer Trust**

Petition to determine trust property is recommended for approval as prayed.

**18. S-PR-0011754 In Re the Estate of Huxley, John**

Missing notice of hearing for petition to administer estate. Missing service of notice of hearing. Missing proof of publication of notice of hearing.

Missing copy of will attached to the petition. Missing proof of will; will is not self-proving: witnesses did not execute a declaration or affidavit.

Missing required allegations at ¶ 5a(3)-(4) (RDP), (7)-(8) (issue of predeceased child(ren)), & (b) (step- or foster child(ren)). Missing identification of any person(s) named in the will (¶ 8).

Note: missing signed duties form (DE-147). Clerk cannot issue letters until duties form is filed, C.R.C. 7.150.

**19. S-PR-0011758 In Re the Matter of Franco, Franklin Aloysius II**

Appearance is required for hearing on petition to remove agent and for other relief.

**20. S-PR-0011759 In Re the Estate of Orsborn, Thomas**

Missing proof of publication of notice of hearing for petition to administer estate.  
Missing copy of will attached to the petition. Missing original will, Prob.C. § 8200(a).  
Missing request for bond / request to waive bond (¶ 1d).

**21. S-PR-0011762 In Re the Estate of Cotton, Gloria Grace**

Missing notice of hearing for petition to administer estate. Missing service of notice of hearing. Missing proof of publication of notice of hearing.

Missing copy of will attached to petition, Prob.C. § 8002(b)(2). Missing written transcription of holographic instrument, Prob.C. § 8002(b)(2). Missing proof of holographic instrument.

Missing required allegations at ¶ 5a(3)-(4) (RDP), (7)-(8) (issue of predeceased child(ren)) & (b) (step- or foster child(ren)). Missing identification of any executor(s) named in the will (¶ 8).

Note: missing signed duties form (DE-147). Clerk cannot issue letters until duties form is filed, C.R.C. 7.150.

**22. S-PR-0011768 In Re the Estate of Peterson, Earl Clayton**

Notice of hearing as filed, served, and published, omits necessary ¶ 5 concerning admission of a will to probate.

Missing original will, Prob.C. § 8200(a).

**23. S-PR-0011839 In Re the Estate of Smith, Walter Arnold**

Petition to administer estate is recommended for approval as prayed.